

April 15, 2004

MEMORANDUM FOR LMSB LEADERSHIP TEAM

FROM: Douglas W. O'Donnell (signed)
Director Field Operations, LMSB, HMT

SUBJECT: Resolution of IRC 401(k) Accelerator Issue

Tax examinations involving the 401(k) accelerator tax shelter issues described in Revenue Rulings 90-105 and 2002-46 should be completed as expeditiously as possible using existing examination processes. There will be no settlement offer on this issue; taxpayers that do not agree with our proposals may request a hearing in Appeals.

Many taxpayers filed Forms 3115 timely and changed their method of accounting. As a general rule, this voluntary Change in Accounting Method resolves the issue for these taxpayers.

In order to be timely, the Form 3115 must have been filed before the "issue was under consideration". When we provide written notice, the issue is under consideration. As soon as the taxpayer has received the mandatory tax shelter IDR listing either Revenue Ruling 90-105 or listing both Revenue Rulings 90-105 and 2002-46, the issue is under consideration.

Please ensure that all agents and other personnel take appropriate action to continue working these issues according to standard examination procedures.